

1-1-2016

Bridging Rule of Law Theory and Implementation: The Role of Professional Ethical Integrity

Kate E. Bloch

Follow this and additional works at: https://repository.uchastings.edu/hastings_international_comparative_law_review

 Part of the [Comparative and Foreign Law Commons](#), and the [International Law Commons](#)

Recommended Citation

Kate E. Bloch, *Bridging Rule of Law Theory and Implementation: The Role of Professional Ethical Integrity*, 39 HASTINGS INT'L & COMPL. REV. 81 (2016).

Available at: https://repository.uchastings.edu/hastings_international_comparative_law_review/vol39/iss1/3

This Comment is brought to you for free and open access by the Law Journals at UC Hastings Scholarship Repository. It has been accepted for inclusion in Hastings International and Comparative Law Review by an authorized editor of UC Hastings Scholarship Repository.

Bridging Rule of Law Theory and Implementation: The Role of Professional Ethical Integrity

BY KATE E. BLOCH*

Effective rule of law anticipates professional ethical integrity.¹ Without the latter, the former is likely to fail. This essay focuses on the fundamental structural connection between the two in the context of a country's justice system and offers a frame for the symposium entitled *Professional Ethical Integrity: Cornerstone for Rule of Law Reform Around the Globe*.² In analyzing the relationship between

* Kate E. Bloch, Professor of Law, University of California Hastings College of the Law. I want to express my deep appreciation to our wonderful colleagues who served on the organizing committee for the symposium, to the insightful and informative speakers and moderators at the event, many of whose articles and essays appear in this issue, to Jean Elias Xavier, Pierre Labossiere, and the LL.M. students whose translations and other contributions were critical to the success of the symposium, to Roz Foy and the members of the *Hastings International and Comparative Law Review* whose hard work was essential to making the event a reality, to the Hastings to Haiti Partnership, to Chuck Marcus for his amazing ability to locate essential reference materials, and to Alina Ball, Rory Little, Morris Ratner, Naomi Roht-Arriaza, and Nancy Stuart who provided invaluable feedback on earlier drafts of this essay. We are also grateful to the generous sponsors whose funding made the symposium possible, and especially to the Lawrence M. Nagin '65 Enrichment Fund.

1. For a discussion of the relationship between professional integrity and the rule of law, see e.g., Anti-Corruption and Public Integrity, American Bar Association Rule of Law Initiative, available at http://www.americanbar.org/advocacy/rule_of_law/thematic_areas/anti_corruption.html (last visited Oct. 3, 2015); Judicial Reform, American Bar Association, available at http://www.americanbar.org/advocacy/rule_of_law/thematic_areas/judicial_reform.html (last visited Oct. 3, 2015) ("Inadequate judicial education and professional training, as well as insufficient emphasis on judicial ethics, hamper the effectiveness of judiciaries and of individual judges in many countries throughout the world . . . Courts are often plagued with corruption, further undermining the fragile public trust in the fairness and efficiency of the judicial system. ABA ROLI believes that an independent, accountable, effective judiciary is a central pillar of the rule of law."); Michael W. McKay, *Defending and Upholding the Rule of Law*, 52 LA. B. J. 90 (2004) ("Every day a lawyer ethically and competently represents a client, the Rule of Law is strengthened.").

2. The University of California Hastings College of the Law hosted the symposium on

the professional integrity of actors in the justice system and the rule of law, the symposium explored individual and systemic professional integrity challenges. It also investigated potential approaches to remedying such challenges for members of the bar and bench in the context of supporting effective rule of law in countries around the globe. The conference participants engaged with these topics over the course of two days, and the conversation continues in the scholarship of this journal issue.³

Definitions of the term “rule of law” vary.⁴ But a meaningful discussion involving rule of law must begin somewhere. To launch that discussion, we begin by highlighting the definition given by the United Nations:

February 26-27, 2015. *Professional Ethical Integrity: Cornerstone for Rule of Law Reform Around the Globe*, available at http://events.uchastings.edu/EventList.aspx?view=EventDetails&eventidn=1476&information_id=3861&type=&rss=rss (last visited Oct. 4, 2015).

3. Dr. Jomanas Eustache, *Reflections on Ethical Integrity: Challenges to the Rule of Law Facing the Haitian Legal Profession*, 39 HASTINGS INT'L AND COMP. L. REV. 137 (2016), Evgeni Georgiev, *Independence of Bulgarian Judges*, 39 HASTINGS INT'L AND COMP. L. REV. 211 (2016), Hualing Fu, *Building Judicial Integrity in China*, 39 HASTINGS INT'L AND COMP. L. REV. 167 (2016), Geoffrey C. Hazard, Jr., *Bar, Bench, and Civic Culture*, 39 HASTINGS INT'L AND COMP. L. REV. 267 (2016), Mario Joseph & Nicole Phillips, *Judicial Corruption in Haiti: The Need for Discipline and Civil Society Participation*, 39 HASTINGS INT'L AND COMP. L. REV. 183 (2016), Rory K. Little, *Cross-Cultural Challenges, Consensus, and Opportunities for Advancing the Professional Ethical Integrity of Legal System Actors*, 39 HASTINGS INT'L AND COMP. L. REV. 95 (2016), Mirte Postema, *Why Reforms Alone are Insufficient to Strengthen the Judiciary: A Case Study of Guatemala's Judicial Selection Processes*, 39 HASTINGS INT'L AND COMP. L. REV. 237 (2016), Morris A. Ratner, *Judicial Ethical Integrity: Challenges and Solutions*, 39 HASTINGS INT'L AND COMP. L. REV. 149 (2016), Deborah L. Rhode, *Professional Integrity and Professional Regulation: Nonlawyer Practice and Nonlawyer Investment in Law Firms*, 39 HASTINGS INT'L AND COMP. L. REV. 111 (2016), Naomi Roht-Arriaza, *Capturing the Insights: Commonalities and Differences*, 39 HASTINGS INT'L AND COMP. L. REV. 275 (2016), Jessica Vapnek, *Cultural Factors and Ethical Integrity*, 39 HASTINGS INT'L AND COMP. L. REV. 123 (2016).

4. Jon Eddy, *Lessons from Afghanistan: Some Suggested Ethical Imperatives for Rule of Law Programs*, 39 OHIO N.U. L. REV. 901, 901 (2013) (“Rule of Law is a high-minded term. For the last twenty-five years, it has enjoyed a prominent place in technical legal assistance programs Notwithstanding and perhaps facilitating this wide-spread acceptance, there are substantial disagreements about the content of the concept.”) (footnotes omitted); Randall Perenboom, *Let One Hundred Flowers Bloom, One Hundred Schools Contend: Debating Rule of Law in China*, 23 MICH. J. INT'L L. 471, 472 (2002) (“Theories of rule of law can be divided into two general types: thin and thick.”); Vesselin Popovski, *International Rule of Law and Professional Ethics*, 1 (Vesselin Popovski, ed. 2014) (“The rule of law is a long standing ideal developed over millennia which demands that all people - rich or poor, powerful or weak - should respect the law and be equal before the law. The ideal is expressed in different ways as a concept, value, ideal, principle, with a range of cultures going back at least as far as the riverine civilization of Babylon.”).

For the United Nations, the rule of law refers to a principle of governance in which all persons, institutions and entities, public and private, including the State itself, are accountable to laws that are publicly promulgated, equally enforced and independently adjudicated, and which are consistent with international human rights norms and standards. It requires, as well, measures to ensure adherence to the principles of supremacy of law, equality before the law, accountability to the law, fairness in the application of the law, separation of powers, participation in decision-making, legal certainty, avoidance of arbitrariness and procedural and legal transparency.⁵

This definition posits a series of principles that, as the symposium underscored, may or may not individually or collectively represent a working (or perhaps even aspirational) set of principles for each of the countries whose justice system was a focus of the symposium.⁶ To the extent, however, that a country or individuals living within it consider at least some of the principles in the United Nations' definition essential to a healthy judicial system and society,⁷

5. *United Nations and the Rule of Law*, available at <http://www.un.org/en/ruleoflaw/> (last visited Oct. 3, 2015), quoting *Report of the Secretary-General on the Rule of Law and Transitional Justice in Conflict and Post-Conflict Societies* (S/2004/616).

6. For example, Professor Hualing Fu, a symposium speaker and scholar on rule of law in China, opines that the scope of judicial independence in China may be substantially affected by political considerations. Fu, *supra* note 3, at 168 ("China is a one party authoritarian state where the ruling CCP [Chinese Communist Party] has its leadership position entrenched in the Constitution. This allows the CCP to dominate legal reform and control judges."). For a discussion of concerns about government responses to attorneys working to further civil rights and the rule of law in China, see *And the Law Won*, THE ECONOMIST, 35 (May 23-29, 2015), available at <http://www.economist.com/news/china/21651843-rise-and-fall-chinas-civil-rights-lawyers-says-much-about-communist-partys-approach> (last visited Oct. 26, 2015).

7. International efforts to foster the rule of law have been the subject of substantial critique. See e.g., Rosa Ehrenreich Brooks, *The New Imperialism: Violence, Norms, and the "Rule of Law,"* 101 MICH. L. REV. 2275, 2285 (2003) ("Recent U.S. and international interventions to promote the rule of law (interventions through military force and through massive aid infusions designed to alter fundamental aspects of societies) have been disappointing in large part because their architects are unwilling to grapple with complex issues of norm creation and the relationship between 'law' and 'norms.'"); Thomas Carothers, *The Rule of Law Revival*, Foreign Affairs (March/April 1998), available at <https://www.foreignaffairs.com/articles/1998-03-01/rule-law-revival> (last visited Oct. 3,

then the definition offers a starting point for analyzing the relationship between rule of law and the ethical integrity of actors within a legal system.

I would suggest that effective rule of law, however defined, needs more than adherence to and implementation of a set of principles. Although such adherence and implementation is critical,⁸ so too is a shared perception that the principles underlie governmental and societal functioning. Successful implementation of the rule of law then means not only that reality at least approximates whatever constitutes the applicable description of the rule of law, but also that there is a shared perception that the reality approximates the description.⁹

Studying the United Nations' rule of law definition reveals that successfully implementing it involves risks and requires overcoming various vulnerabilities. If rule of law demands that all are "accountable to laws that are publicly promulgated, equally enforced"¹⁰ and fairly applied, then corruption undermines the rule of law. If rule of law demands that all are "accountable to laws,"¹¹ then impunity undermines the rule of law. If rule of law demands "equality before the law, accountability to the law, [and] fairness in the application of the law,"¹² then unlawful discrimination, among other impediments, also undermines the rule of law.

Each legal system analyzed at the symposium may have faced different risks, in kind or degree, but each confronted the relationship between principles underlying the rule of law and the reality that implementation requires human agency. Professional ethical integrity serves to guide actors individually and systemically in implementing the rule of law. Although, like rule of law itself, the specifics of

2015) ("Western nations and private donors have poured hundreds of millions of dollars into rule-of-law reform, but outside aid is no substitute for the will to reform, which must come from within.").

8. Debra Gardner, *A Right to Counsel in Critical Civil Cases and the Role of the Private Bar*, 47-AUG MD. B.J. 12 (2014) ("public respect for the rule of law depends critically on the legal system's ability to mirror the public's perception that justice is administered evenhandedly.").

9. For instance, even if the rule of law prevails, without a shared belief that the rule of law governs, residents may still hesitate to bring their cases before the justice system.

10. United Nations and the Rule of Law, *supra* note 5.

11. *Id.*

12. *Id.*

professional integrity norms may vary among jurisdictions,¹³ a dearth of professional integrity likely condemns the endeavor to limited effectiveness or to outright failure.

In the United States, for example, a substantial impediment to the rule of law with which we continue to struggle involves racial bias. Unlawful discrimination invidiously undermines equal enforcement of the law and fairness in its application, consequently undermining the rule of law itself.¹⁴ In the months preceding the symposium, police officer interactions that resulted in the deaths of young, unarmed men of color, and questions about grand jury processes and grand jury decisions not to indict the involved officers surfaced deep and widespread concerns about systemic discrimination.¹⁵ These concerns stand at the forefront of our national consciousness, catapulted there by the deaths of these unarmed men of color at the hands of law enforcement officers.¹⁶ Whatever beliefs one may hold about the facts of particular cases, these encounters have refocused attention on the corrosive force of discrimination on the rule of law in the United States.

In the wake of a grand jury decision not to indict the officer involved in one such case, the case involving the choking of Eric Garner,¹⁷ President Obama proclaimed that he was “absolutely committed as President of the United States to making sure that we have a country in which everybody believes in the core principle that we are equal under the law.”¹⁸ President Obama’s remarks reflect not

13. Compare e.g., New York Rules of Professional Conduct, available at <http://www.nycourts.gov/rules/jointappellate/ny-rules-prof-conduct-1200.pdf> (last visited Oct. 3, 2015) with California Rules of Professional Conduct, available at http://rules.calbar.ca.gov/Portals/10/documents/2013_CaliforniaRulesofProfessionalConduct.pdf (last visited Oct. 3, 2015).

14. Invidious discrimination is but one of the concerns raised about rule of law in the U.S. For a discussion of concerns, for example, about part-time judges, see e.g., James L. Cotton, Jr., *The Impossible Balance: A Tennessee Judge Makes the Case for Abolishing State’s Part-Time Judgeships*, 37 MAY-TENN. B.J.12 (2001).

15. For a discussion of concerns about discrimination related to these deaths, see e.g., John Lewis, *Michael Brown, Eric Garner, and the ‘Other America,’* THE ATLANTIC.COM, Dec. 15, 2014 available at <http://www.theatlantic.com/politics/archive/2014/12/michael-brown-eric-garner-other-america-john-lewis/383750/> (last visited Oct. 3, 2015).

16. *Id.*

17. A video of the police interaction with Mr. Garner can be found at: <https://www.youtube.com/watch?v=LfXqYwyzQpM> (last visited Oct. 3, 2015).

18. President Obama Delivers a Statement on the Grand Jury Decision in the Death of Eric Garner, The White House Blog, available at <http://www.whitehouse.gov/blog/2014/12/03/president-obama-delivers-statement-grand-jury-decision-death-eric-garner> (last visited

only an affirmation of the principle of equality before the law as in the UN definition of the rule of law, but also the importance of a shared belief in that principle. President Obama's description of his role as one of "making sure" that all believe in this principle captures the risk that invidious discrimination poses to the rule of law. A failure of law enforcement officers or other actors in the justice system to embrace the principle of equality under the law threatens the rule of law itself.

We might imagine the effective implementation of the rule of law as a suspension bridge. From the Fourteenth Amendment of the U.S. Constitution¹⁹ to the Civil Rights Act of 1964²⁰ and beyond, the United States has many laws against unlawful discrimination. Here, laws, including those against invidious discrimination, stand as the bridge's pillars or towers, rooted in the sea bed. Because the pillars alone do not permit successful passage from one side of the bridge to the other, eliminating invidious discrimination,²¹ like eradicating many obstacles to the success of the rule of law, requires more. Laws must be implemented and respected. Success of the rule of law also depends then on the individual and systemic integrity of actors who wield the power to apply and enforce the laws. The work of these actors serves, like the bridge's slender suspender ropes, to connect the bridge's roadway to the elevated support structure's main cables. Without effective implementation, the rule of law, like the bridge, would collapse.

Although many people inside and outside the justice system act in conformance with and respect laws, laws do not necessarily apply or enforce themselves. Moreover, empirical research suggests that the behavior of actors in ethically challenging contexts may be situationally rather than dispositionally dependent.²² As a result, it

Oct. 3, 2015).

19. U.S. Constitution, Amendment XIV, Section 1.

All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws. *available at* http://www.archives.gov/exhibits/charters/constitution_amendments_11-27.html (last visited Oct. 3, 2015).

20. Civil Rights Act of 1964, Public Law 88-352, 78 Stat. 241 (1964).

21. The parameters or definition of unlawful discrimination may differ from one country or jurisdiction to another.

22. *See, e.g.,* Philip G. Zimbardo, *Stanford Prison Experiment: A Simulation Study of*

may not be enough to have well-intentioned, “good,” or even generally ethically conscientious actors. When circumstances can trump disposition, whether in a country in which the legal profession is understood as primarily self-regulating or in one where regulation regularly relies substantially on external constraints, we must recognize the importance of creating support systems that encourage actors in the system to proceed with integrity.

During the symposium, participants explored how to create conditions conducive to supporting the professional integrity of actors in the judicial system. To arrive at answers, we had to first identify risks. Two panels worked to unveil professional ethical challenges faced by actors in the bar and on the bench in countries around the world.²³ One panel focused on attorneys; panelists explored ethical dilemmas primarily under the rubrics of corruption and conflicts of interest.²⁴ Another panel examined such dilemmas for judicial officers in the domains of corruption, competence, and independence.²⁵ Corresponding morning and afternoon panels then produced a range of possible responses designed to encourage and support ethical conduct by attorneys and judges.²⁶ A lunchtime panel

the Psychology of Imprisonment, The Story: An Overview of the Experiment, STANFORD PRISON EXPERIMENT <http://www.prisonexp.org/the-story/>, (last visited Oct. 3, 2015); Saul McLeod, *The Milgram Experiment*, SIMPLYPSYCHOLOGY, <http://www.simplypsychology.org/milgram.html> (last visited Oct. 3, 2015), and as discussed in Kate E. Bloch & Roxane Edmond-Dimanche, *The Rule of Law and Ethical Integrity: Does Haiti Need a Code of Legal Ethics?* 37 U. HAWAII L. REV. 1, 32-33 (2015). Scholars do, however, suggest the exercise of caution in extrapolating the results of studies from one culture to another. See McLeod, *supra* (citing PETER B. SMITH & MICHAEL HARRIS BOND, *SOCIAL PSYCHOLOGY ACROSS CULTURES* (2d ed. 1998)).

23. Panel #1: Identifying Ethical Integrity Challenges to the Rule of Law Facing the Legal Profession & Panel #3: Identifying Ethical Integrity Challenges to the Rule of Law Facing the Judiciary, *Professional Ethical Integrity: Cornerstone for Rule of Law Reform Around the Globe Symposium*, *supra* note 2. See also the summaries of the two morning panels focused on attorneys and the two afternoon panels focused on judicial officers, Little, *supra* note 3, Ratner, *supra* note 3. Panelists identifying challenges also often identified potential remedies, and panelists describing possible remedies also often clarified the challenges.

24. Panel #1, *supra* note 2, and Little, *supra* note 3.

25. Panel #3, *supra* note 2, and Ratner, *supra* note 3.

26. Panel #2: Exploring Pioneering Approaches to Addressing Ethical Integrity Challenges to the Rule of Law Facing the Legal Profession & Panel #4: Exploring Innovative Approaches to Addressing Ethical Integrity Challenges to the Rule of Law Facing the Judiciary, *Professional Ethical Integrity: Cornerstone for Rule of Law Reform Around the Globe Symposium*, *supra* note 2. For a document representing views about ethical approaches for judges adopted by the Judicial Group on Strengthening Judicial Integrity, see *The Bangalore Principles of Judicial Conduct* (2002), available at

offered perspectives on professional integrity quandaries for attorneys whose firms engage in multinational practices.²⁷ On the second day of the symposium, working groups, generally including both attorneys and judges, along with a final panel, focused on capturing ideas for change and ways to implement those ideas.²⁸

Although symposium speakers were often reflecting on legal systems operating in different countries, significant shared refrains or approaches for creating conditions conducive to ethical conduct emerged. For example, speakers emphasized the importance of adopting or modifying ethics codes to guide professional conduct.²⁹ The perceived value of such codes for attorneys found voice in the week following the symposium. Me Carlos Hercule, who is president of the Port-au-Prince (PAP) Bar³⁰ and had spoken at the symposium, subsequently reported that, on March 6, 2015, just seven days after the symposium concluded, the PAP Bar's general assembly adopted a code of legal ethics for its member attorneys.³¹

http://www.unodc.org/pdf/crime/corruption/judicial_group/Bangalore_principles.pdf (last visited Oct. 3, 2015).

27. Lunchtime Keynote Panel: Ethical Conundrums Confronting Attorneys Who Practice Around the World, Professional Ethical Integrity: Cornerstone for Rule of Law Reform Around the Globe Symposium, *supra* note 2; *see also* Little, *supra* note 3.

28. Joint Legal Profession & Judiciary Working Groups; Panel: Capturing the Insights: Commonalities & Differences, Professional Ethical Integrity: Cornerstone for Rule of Law Reform Around the Globe Symposium, *supra* note 2. *See also* the summary of this panel, Roht-Arriaza, *supra*, note 3.

29. *See e.g.*, Eustache, *supra*, note 3, Vapnek, *supra*, note 3. A code may be a set of guidelines or enforceable disciplinary rules or some combination of the two. At a minimum, it can help attorneys begin to frame and analyze ethical issues. Occasionally, it may provide an answer, but, even if it serves as the starting point of a discussion, a discussion can clarify values and role morality. Bloch & Edmond-Dimanche, *supra* note 22, at 15. A deep understanding of local cultural norms should play an essential role in the development and adoption of codes, whether or not a code aims to codify existing practice or move in new directions. For a discussion of risks associated with failure to pay heed to local context, *see e.g.*, James Moliterno, *Exporting American Legal Ethics*, 43 AKRON L. REV. 769, 770 (2010). On the question of the role of ethics codes, *see also* the comments by Professor Geoffrey Hazard and Judge John Tunheim, as discussed in Roht-Arriaza, *supra* note 3. For examples of other approaches, *see* Vapnek, *supra* note 3.

30. Me Hercule is also the president of the Federation of Haitian Bar Associations.

31. Email from Carlos Hercule to Kate Bloch (May 19, 2015) (on file with author); Code de déontologie de la profession d'avocat, Annexe II, 153, Liste Générale des Avocats, (Juin 2015). The Port-au-Prince Bar is a mandatory bar, in that an attorney whose practice is located in the Port-au-Prince jurisdiction must belong to the Port-au-Prince Bar. The code that was adopted by the Port-au-Prince Bar in March of 2015 reflects a code that was previously adopted, in 2002, by the Federation of Haitian Bar Associations, a voluntary association of bar associations in Haiti.

Similarly, change to the California Code of Judicial Ethics, in the month prior to the symposium, highlights the importance and perceived value of a code in calibrating and guiding judicial conduct.³² In January of 2015, in response to a vote by state judges in favor of the change, the California Supreme Court modified the Code of Judicial Ethics; it deleted an exception that had permitted membership in nonprofit youth organizations even if those organizations discriminated on the basis of sexual orientation.³³ The change precludes judges' membership in such organizations. The Advisory Committee explains that the change aims "to preserve the fairness, impartiality, independence, and honor of the judiciary, to treat all parties equally under the law, and to avoid impropriety and the appearance of impropriety."³⁴ The exception that was eliminated stood at the intersection of the rule of law and professional ethical integrity for judges in California. This change reached deeply into the private lives of judges, anticipating – absent a subsequent modification in the organization's rules – a prohibition on judges from belonging to organizations like the Boy Scouts of America.³⁵

32. *Supreme Court Eliminates Ethics Exception that Permitted Judges to Belong to Nonprofit Youth Organizations that Discriminate*, News Release, Supreme Court of California, January 23, 2015, available at <http://www.courts.ca.gov/28482.htm> (last visited Oct. 27, 2015) ("The Supreme Court of California unanimously voted to eliminate an exception in Canon 2C of the California Code of Judicial Ethics that permitted judges to belong to nonprofit youth organizations that practice invidious discrimination.").

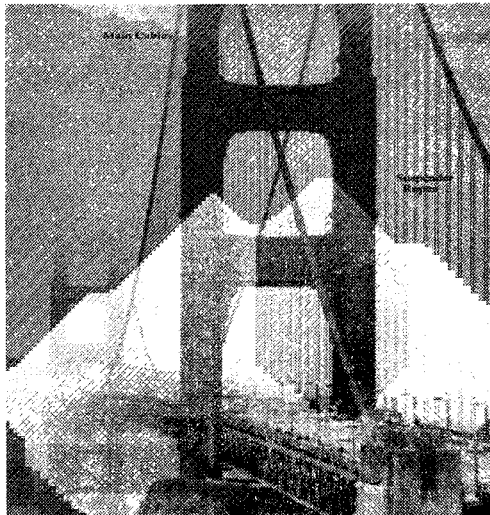
33. *Id.*

34. *Membership in Organizations*, Advisory Committee Commentary, The Judge Shall Avoid Impropriety and the Appearance of Impropriety in All of the Judge's Activities, Canon 2C, California Code of Judicial Ethics, available at http://www.courts.ca.gov/documents/ca_code_judicial_ethics.pdf (last visited Oct. 3, 2015). The modification is due to become effective on January 21, 2016, one year after its approval. With respect to the modification, the Advisory Committee's Commentary notes: "The code prohibits such membership by judges to preserve the fairness, impartiality, independence, and honor of the judiciary, to treat all parties equally under the law, and to avoid impropriety and the appearance of impropriety. Previously, Canon 2C contained exceptions to this prohibition for membership in religious organizations, membership in an official military organization of the United States and, so long as membership did not violate Canon 4A, membership in a nonprofit youth organization. The exceptions for membership in an official military organization of the United States and nonprofit youth organizations have been eliminated as exceptions to the canon." *Id.*

35. *California Bars Judges from Boy Scouts Membership*, Associated Press (Jan. 24, 2015) available at <http://cnsnews.com/news/article/california-bars-judges-boy-scouts-membership> (last visited Oct. 3, 2015). Discussion surrounding the change in the Code of Ethics also suggested that this change might inspire a policy adjustment where a private organization continued to preclude participation by LGBTQ adults. Thomas Curwen, *State high court's vote affecting Scout affiliation stirs debate anew*, L.A. TIMES, Jan. 24, 2015 available at <http://www.latimes.com/local/california/la-me-0125-boy-scouts-judges-201501>

In the United States, laws protect the rights of members of the LGBTQ community.³⁶ But, for the rule of law to be effective, we need actors in the system who not only respect the laws, but who are also seen and understood to be implementing them fairly, with all who come into the judicial system treated equally and without arbitrariness. The modification of the Code of Judicial Ethics strives to ensure not only the reality of fairness in the application of the law, but also the perception and confidence in that reality.

Approaches, like these, to supporting professional ethical integrity represent a further crucial structural component and serve as the main cables connecting actors' work to the overall larger systemic structure. Like the adoption of the legal ethics code by the Port-au-Prince Bar in Haiti and the revision of the California Code of Judicial Ethics, we can envision modifying or strengthening these main cables over time.³⁷



25-story.html#page=1 (last visited Oct. 3, 2015). Six months after the change to the judicial ethics code, the Boy Scouts of America voted to lift the ban precluding LGBTQ adult scout leaders. Pete Williams, *Boy Scouts of America Votes to Allow Gay Scout Leaders*, NBC NEWS, July 29, 2015, available at <http://www.nbcnews.com/news/us-news/boy-scouts-america-allow-gay-scout-leaders-n399241> (last visited Oct. 3, 2015).

36. See e.g., Cal. Gov. Code § 12940 (2014) available at <http://www.leginfo.ca.gov/cgi-bin/displaycode?section=gov&group=12001-13000&file=12940-12951> (last visited Oct. 3, 2015) (provides protection against discrimination relating to employment). For an analysis of protection of the rights of members of the LGBTQ community on a national constitutional level, see e.g., *Obergefell v. Hodges*, 135 S. Ct. 2584 (2015).

37. For a discussion of additional possible measures to reinforce professional integrity and support the rule of law, see e.g., Vapnek, *supra* note 3.

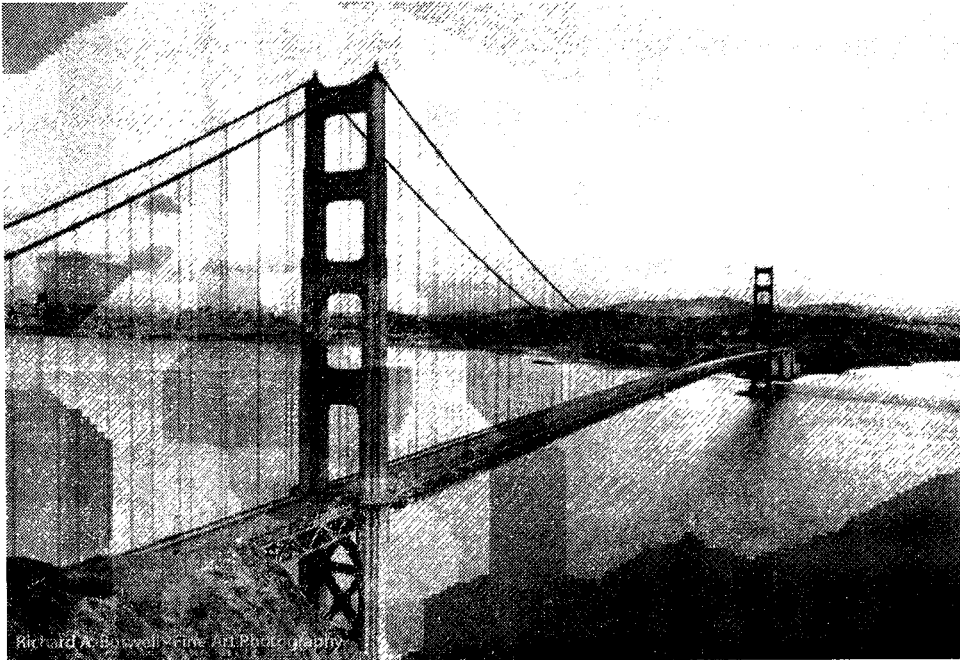
By virtue of its location and role, the structural components of a bridge commonly face continuing assault by the elements, not to mention the occasional battery on a tower by a boat.³⁸ Metal components face the corrosive effect of rust, which can eat through them and destroy the functionality of the bridge. In the United States, invidious discrimination stands among the most prominent and corrosive challenges to the rule of law. Nations around the globe confront their own professional integrity nemeses to the rule of law. As this symposium issue records, participants identified such professional integrity challenges, analyzed possible remedies, and imagined how to incorporate those remedies to create an ethos where the rule of law prevails.

Professional ethical integrity is critical to the rule of law; rule of law can serve as an essential component to the healthy functioning of a society. With both rule of law and professional ethical integrity, there can be a functional bridge.³⁹ A bridge like the Golden Gate pictured below⁴⁰ may be a monument worthy of praise for its aesthetic appeal. But it is in its functionality, in its ability to allow residents and visitors to traverse the watery expanse between Marin and San Francisco Counties without fear, in its ability to inspire trust that the components of its construction are sound, that the bridge reveals its genuine worth.

38. See e.g., Pilot Who Crashed into Golden Gate Bridge Imprisoned (July 24, 2009), available at <http://www.opposingviews.com/i/pilot-who-crashed-ship-into-golden-gate-bridge-imprisoned> (last visited Oct. 3, 2015).

39. A bridge, like successful implementation of the rule of law, does have additional important elements. The goal in this essay is to highlight several key components of each.

40. Photo reprinted by permission of Richard A. Boswell.



For the Golden Gate Bridge, “[t]he truth is that the Bridge is painted continuously.”⁴¹ The Bridge, like the effective implementation of the rule of law, requires constant vigilance. The symposium drew upon the extraordinary contributions of authorities on the rule of law from around the globe to unearth professional integrity challenges and to brainstorm and share potential solutions as part and parcel of that vigilance. Together, through an international dialogue, we can work to identify structural deficiencies, build pillars, repair broken cables, and prevent rust from corroding these structures. We can learn how to forge anew the vital connections that are needed for professional ethical integrity in its support of the rule of law. Sometimes and in some places, the rule, like the bridge, will just need painting; at other times, it may need much more extensive work. Where the pillars need basic structural reinforcement, where the suspender ropes or the cables are not securely fastened, or where the bridge needs to shed an invasive layer of rust, we must be willing to immerse ourselves in the challenges in order to enjoy justice and traverse the expanse of complex human interactions with integrity. I invite and encourage

41. Painting the Golden Gate Bridge, *available at* <http://goldengatebridge.org/research/factsGGBIntOrngPaint.php> (last visited Oct. 3, 2015).

you to engage with the symposium articles and essays that follow in the effort to build societal bridges that support justice.
